

**§ 1219.50**

**7 CFR Ch. XI (1–1–04 Edition)**

(1) Making any reference to private brand names or making false, misleading, disparaging, or unwarranted claims on behalf of Hass avocados or

(2) Making any false, misleading, or disparaging statements with respect to the attributes or use of any agricultural product. This section shall not preclude the Board from offering its programs, plans, and projects for use by commercial parties under such terms and conditions as the Board may prescribe as approved by the Secretary.

(d) For the purposes of this section, a reference to State of origin or country of origin does not constitute a reference to a private brand name with regard to any funds credited to or disbursed by the Board to the Association or to any importer association established in accordance with § 1219.54.

**BUDGETS, EXPENSES, AND ASSESSMENTS**

**§ 1219.50 Budgets, programs, plans, and projects.**

(a) The Board shall submit to the Secretary, on a fiscal period basis, annual budgets of its anticipated expenses and disbursements of the Board in the administration of this subpart, including the projected costs of Hass avocado promotion, industry information, consumer information, and related research programs, plans, and projects. The first budget shall cover such period as may remain before the beginning of the next fiscal period. If such fiscal period is 90 days or less, the first budget shall cover such period, as well as the next fiscal period. Thereafter, the Board shall submit budgets for each succeeding fiscal period not less than 60 days before the beginning of such fiscal period.

(b) The Board shall receive and evaluate, or on its own initiative develop programs, plans and projects for Hass avocado promotion, industry information, consumer information as well as related research. The Board shall submit to the Secretary for approval any program, plan, or project authorized in this subpart. Such programs, plans or projects shall provide for:

(1) The establishment, implementation, issuance, effectuation, administration, and evaluation of appropriate programs, plans, or projects for adver-

tising, sales promotion, other promotion, and consumer information with respect to Hass avocados directed toward increasing the general demand for Hass avocados in the United States. Funds shall be available as necessary to carry out this section;

(2) The establishment, implementation, issuance, effectuation, administration, and evaluation of appropriate programs, plans, and projects designed to strengthen the position of the Hass avocado industry in the domestic marketplace; to maintain, develop, and expand markets for Hass avocados in the United States; to lead to the development of new marketing strategies; to advance the image and desirability of, increase the efficiency of, and encourage further development of the Hass avocado industry; and to provide for the disbursement of necessary funds for the purposes described in this section;

(3) The establishment, implementation, issuance, effectuation, administration, and evaluation of programs, plans, and projects for marketing development research; research on the sale, distribution, marketing, use, quality, and nutritional value of Hass avocados; and other research with respect to Hass avocado marketing, promotion, industry information, or consumer information, including the creation of new products thereof. Information acquired from such plans and projects shall be disseminated as appropriate. Funds shall be available as necessary to carry out this section; and

(4) The Board to enter into contracts or make agreements for the development and carrying out of research, promotion, and information, and pay for the costs of such contracts or agreements with funds collected pursuant to § 1219.54.

(c) A budget, program, plan, or project for Hass avocados promotion, industry information, consumer information, or related research may not be implemented prior to approval of the budget, program, plan, or project by the Secretary. If the Secretary fails to provide notice to the Board or approval or disapproval of a budget, program, plan, or project within 45 days after receipt, such budget, program, plan, or project shall be deemed approved by

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the Secretary and may be implemented by the Board.

(d) The Board, from time to time, may seek advice and consult with experts from the production, import, wholesale, and retail segments of the Hass avocado industry to assist in the development of promotion, industry information, consumer information, and related research programs, plans, and projects. For these purposes, the Board may appoint special committees composed of persons other than Board members. A committee so appointed shall consult directly with the Board.

(e) Programs must be conducted throughout the year to reflect the periods when imported and domestic Hass avocados are in the U.S. marketplace.

(f) The Board shall consult with both the Association and importer associations on programs, plans, and projects for generic promotions.

### **§ 1219.51 Contracts and agreements.**

(a) The Board shall enter into a contract or an agreement with the Association for the implementation of programs, plans, or projects for promotion, industry information, consumer information, or related research with respect to Hass avocados and for the payment of the cost of the contract or agreement with funds received by the Board under this subpart. The Board may disburse such funds as necessary for these purposes after such programs, plans, or projects have been submitted to and approved by the Secretary.

(b) Any contract or agreement entered into shall provide that the contracting or agreeing party shall develop and submit to the Board a program, plan or project, together with a budget that includes the estimated costs to be incurred for the program, plan or project, and such program, plan or project shall become effective on the approval of the Secretary. For such contract or agreement, the contracting or agreeing party shall:

(1) Keep accurate records of all transactions of the party;

(2) Account for funds received and expended;

(3) Make periodic reports to the Board of activities conducted; and

(4) Make such other reports as the Board or the Secretary shall require.

(c) The Secretary may audit the records of the contracting or agreeing party periodically.

(d) Contractors and subcontractors are subject to the provisions of § 1219.42.

(e) The Board may enter into contracts or agreements for administrative services, including contracts for employment, as may be required to conduct its business. To the extent appropriate to the contract involved, contracts or agreements entered into by the Board under the authority of this section shall conform to the provisions described in paragraph (b) of this section.

### **§ 1219.52 Control of administrative costs.**

(a) As soon as practicable after September 9, 2002, and after consultation with the Secretary and other appropriate persons, the Board shall implement a system of cost controls based on normally accepted business practices to:

(1) Ensure that the costs incurred by the Board in administering this part in any fiscal period shall not exceed 10 percent of the projected level of assessments and other income received by the Board for generic promotion and research programs for that fiscal period; and

(2) Cover the minimum administrative activities and personnel needed to properly administer and enforce this subpart, and conduct, supervise, and evaluate programs, plans, and projects under this subpart.

(b) Reimbursements to the Secretary required under § 1219.53(b) are excluded from the limitation on spending.

(c) To the extent possible, the Board shall use the resources, staffs, and facilities of existing avocado organizations as provided in § 1219.54(a).

### **§ 1219.53 Budget and expenses.**

(a) The Board is authorized to incur such expenses, including provision for a reasonable reserve for operating contingencies, as the Secretary finds are reasonable and likely to be incurred by the Board for its maintenance and functioning and to enable it to exercise